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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,581	09/23/2005	Augustin Toma	87305.0042	5637

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BAKER & HOSTETLER LLP  
WASHINGTON SQUARE, SUITE 1100  
1050 CONNECTICUT AVE. N.W.  
WASHINGTON, DC 20036-5304

EXAMINER
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ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

MAIL DATE	DELIVERY MODE
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08/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,581	<b>Applicant(s)</b> TOMA ET AL.	
	<b>Examiner</b> Gary Estremsky	<b>Art Unit</b> 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 7/2/07. These drawings are approved.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It's not clear what is meant by alternative recitation of "can be swiveled either parallel or vertical to the swiveling axis" where as best understood, the safety lever has a single degree of rotational freedom about a fixed axis whereby it is only able to pivot about its single fixed pivot axis location.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Germany Pat. Document No. 1772882.

Germany '882 teaches Applicant's claim limitations including "a "locking lever" – 3, an "electromagnet" – 4 or 5, a "safety lever" – 7 (*schwenkhebel* – rocker), "is actuated with prestress" – frictional prestress provided by leaf spring 9 (*blattfeder* – leaf spring), and due to its geometry one of ordinary skill in the art would recognized that it is illustrated as being inherently "pivoted in its center of gravity". German-English translation provided by Alta Vista.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,988,711 to Toma.

Toma '711 teaches Applicant's claim limitations including "a "locking lever" – 3, a "safety lever" – 10, "is actuated with prestress" – provided by spring 14, and explicitly described as being symmetrically constructed and "pivoted in its center of gravity".

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,988,711 to Toma in view of U.S. Pat. No. 6,874,830 to Bashford.

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Although Toma '711 does not disclose a microswitch, Bashford '830 teaches that it is well known in the art to provide a microswitch. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the striker of Toma '711 with a microswitch for monitoring the condition of the striker from remote location.

8. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Germany Pat. Document No. 1772882 in view of U.S. Pat. No. 6,874,830 to Bashford.

Although Germany '882 does not disclose a microswitch, Bashford '830 teaches that it is well known in the art to provide a microswitch. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the striker of Germany '882 with a microswitch for monitoring the condition of the striker from remote location.

#### ***Allowable Subject Matter***

9. Claim 9 is allowed.

#### ***Response to Arguments***

10. Applicant's arguments have been fully considered but they are not persuasive. Contrary to Applicant's arguments the safety lever of Germany '882 is disclosed to be pivoted about its geometric centroid whereby one of ordinary skill in the art would recognize that it's inherently pivoted about its center of gravity. Broad limitation for restress does not patentably distinguish from the friction inherently provided by the leaf

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spring contact. As regards Toma '711, argument that the prior art includes more elements than presently claimed is not persuasive argument for patentability when the claims do not exclude the provision of additional parts. Arguments against rejection made under 35 USC 103 is not persuasive where the references are argued individually as not teaching the invention when they have been relied upon in combination as teaching the claimed invention under guidelines for obviousness.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

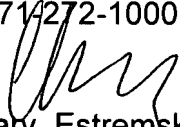
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gary Estremsky  
Primary Examiner  
Art Unit 3676